

REMARKS

The Office Action of October 27, 2010, was received and carefully reviewed. Claims 1-10, 17-23, 25-27, 29-36, 38, 39, 41, 42, 44-47, 49, 50, 52, 53 and 55-64 were pending in this application prior to the instant amendment, of which claims 17-23 and 25-27 were previously withdrawn from consideration. By this amendment, claims 1, 8, 33, 35 and 44 are amended; claims 2-4, 6, 7, 9-16, 24, 28-32, 37-43 and 48-64 are canceled; and claims 65-70 are added. Support for new claims 65-70 can be found, for example, in FIGS. 21A-21B, and in the second paragraph of page 56 of the originally filed specification, which has been reproduced below for the Examiner's convenience:

Further, in embodiment 11 the power source control TFT 4706 is formed between the current control TFT 4704 and the EL element 4708, but a structure in which the current control TFT 4704 is formed between the power source control TFT 4706 and the EL element 4708 may also be used. In addition, it is preferable for the power source control TFT 4706 to have the same structure as the current control TFT 4704, or for both to be formed in series by the same active layer.

Emphasis added. No new matter has been added. Thus, claims 1, 5, 8, 33-36, 44-47 and 65-70 are currently pending for consideration.

Terminal Disclaimer

Claims 1-10, 29-31, 33-36, 38, 39, 41, 42, 44-47, 49, 50, 52 and 53 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 17-30 of U.S. Patent No. 7,642,559 ("the '559 patent"). Without conceding in detail the merits of the Examiner's rejection in this respect, Applicants hereby submit a Terminal Disclaimer in compliance with 37 CFR 1.321(c) with respect to the '559 patent in order to overcome this rejection. This, Applicants respectfully request withdrawal of this rejection.

Double Patenting Rejections

Claims 1, 5, 33 and 44 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 7,466,293 ("the '293 patent"). Claims 1, 5, 8, 33, 35, 41, 44, 46 and 52 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,879,309 ("the '309 patent"). Claims 2-4, 34, 38, 39, 45, 49 and 50 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18 the '293 patent, in view of U.S. Patent No. 4,040,073 ("the '073 patent").¹ Claims 2-4, 31, 34, 36, 38, 39,

¹ On page 10 of the Office Action, the Examiner refers to claims 2-4, 34, 38, 39, 45, 49 and 50 as being provisionally rejected over "claims 1-18 of copending U.S. Pat. App. No. 10/980,603", in view of the '073 patent. Applicants note, however, that U.S. Pat. App. No. 10/980,603 is issued as the '293 patent. Applicants believe this to be a
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42, 45, 47, 49, 50 and 53 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18 of the '309 patent, in view of the '073 patent. These rejections are traversed for the reasons advanced in detail below.

According to *In re Braat*, the analysis employed in an obviousness-type double patenting rejection parallels the guidelines for analysis of a 35 U.S.C. § 103 obviousness determination. 937 F.3d 589, 19 USPQ2d 1289 (Fed. Cir. 1991). Thus, any obviousness-type double patenting rejection must make clear: (A) the differences between the inventions defined by the conflicting claims – a claim in the patent compared to a claim in the application; and (B) the reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim at issue is anticipated by, or would have been an obvious variation of, the invention defined in a claim in the patent. *See, MPEP § 804*. With respect to both the '293 and the '309 patents, the Examiner has failed to provide sufficient reasoning for the rejections as outlined further herein, and has thus failed to establish a *prime facie* case of obviousness-type double patenting.

1. Rejections under U.S. Patent No. 7,466,293; and U.S. Pat. App. No. 10/980,603, in view of U.S. Patent No. 4,040,073

In the Office Action, Examiner asserts that claim 3 of the '293 patent claims an electroluminescence display device as claimed in independent claims 1, 33 and 44 of the instant application. Specifically, the Examiner relates the first thin film transistor and the second thin film transistor comprising at least two thin film transistors to the switching TFT and current-control TFT of claim 3 of the '293 patent. *See, page 3 of the Office Action*. It is unclear to which of the thin film transistors of the claimed invention the Examiner is relating the switching TFT and the current-control TFT. Assuming *arguendo* that the Examiner intended to relate the switching TFT and the current-control TFT of the '293 patent to the first and second thin film transistors of the claimed invention, claim 3 of the '293 patent would fail to disclose or suggest a second thin film transistor comprising at least two thin film transistors. If the Examiner instead is relating the switching TFT and the current-control TFT of the '293 patent to the at least two thin film transistors of the second thin film transistor, claim 3 of the '293 patent would fail to disclose or suggest a first thin film transistor of the claimed invention.

In addition, the Examiner fails to explain how claim 3 of the '293 patent teaches the limitation of claims 1, 33 and 44, “wherein the at least two thin film transistors and the

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typographical error, and understand that the Examiner intended to reject the claims over the '293 patent, in view of the '073 patent. Clarification is respectfully requested should this understanding be incorrect.

electroluminescence element are connected in series.” Applicants note that this feature is indeed not disclosed or suggested by claim 3 of the ‘293 patent. Claim 3 of the ‘293 patent claims a switching TFT, a current-control TFT, and an EL element formed over the current-control TFT and electrically connected thereto. Assuming that the Examiner is relating the at least two thin film transistors of the claimed invention to the switching TFT and current-control TFT of claim 3 of the ‘293 patent, claim 3 fails to disclose or suggest that at least the switching TFT and the current-control TFT are connected in series with the EL element.

Thus, Applicants respectfully request withdrawal of the rejection of independent claims 1, 33 and 44. The rejection of claims 5, 34 and 45 is believed to be improper at least by virtue of their dependence on claims 1, 33 or 44, and because the ‘073 patent fails to overcome the above-noted deficiencies of the ‘293 patent. The rejection of claims 2-4, 38, 39, 49 and 50 is rendered moot by virtue of their cancellation herein.

2. Rejections under U.S. Patent No. 6,879,309; and U.S. Patent No. 6,879,309, in view of U.S. Patent No. 4,040,073

With respect to the ‘309 patent, the Examiner asserts that claim 1 of the ‘309 patent claims an electroluminescence display device as claimed in independent claims 1, 33 and 44. However, the Examiner fails to explain how claim 1 of the ‘309 patent discloses or renders obvious the limitation of claims 1, 33 and 44, “an electroluminescence element comprising an organic layer interposed between a pair of electrodes, wherein one of the pair of electrodes is electrically connected to the second thin film transistor” (*emphasis added*). Claim 1 of the ‘309 patent does disclose “an EL element connected to the current control TFT”. However, the Examiner fails to allege why it would have been obvious to position the EL element of claim 1 between a pair of electrodes (and to electrically connect one of the pair of electrodes to the switching TFT or current-control TFT), and/or what the motivation would be for making such a change to claim 1.

The Examiner similarly fails to provide any rationale for why it would have been obvious to connect the at least one current-control TFT of claim 1 of the ‘309 patent (which the Examiner appears to relate to the second thin film transistor comprising at least two thin film transistors of the claimed invention) and the EL element in series. As noted above, claim 1 indeed discloses an EL element connected to the current control TFT. However, the Examiner has failed to allege the motivation for connecting them in series, as is claimed in independent claims 1, 33 and 44.

Thus, Applicants respectfully request withdrawal of the rejection of independent claims 1, 33 and 44. The rejection of claims 5, 8, 34-36 and 45-47 is believed to be improper at least by virtue of their dependence on claims 1, 33 or 44, and because the ‘073 patent fails to overcome the

above-noted deficiencies of the '309 patent. The rejection of claims 2-4, 31, 38, 39, 41, 42, 49, 50, 52 and 53 is rendered moot by virtue of their cancellation herein.

In view of the foregoing, Applicants respectfully request allowance of the instant application. If a conference would be helpful in expediting prosecution of the instant application, the Examiner is invited to telephone the undersigned to arrange such a conference.

Information Disclosure Statement

Applicants note that it would appear that the Examiner may have lined through the cited non-patent literature document, "Office Action (U.S. Patent Application No. 11/074,687) dated April 8, 2009", in the "List of references cited by applicant and considered by examiner" considered October 24, 2010, and dated October 27, 2010 on PAIR. This document was originally submitted on a Form PTO-1449 dated November 23, 2009. It is unclear if the Examiner lined through the citation, or if it was just inadvertent by a line through the open space beneath the citation. In order to clarify the record and as a courtesy, Applicants submit herewith a copy of the Form PTO-1449 filed on November 23, 2009, as well as a copy of the cited document for the Examiner's convenience. It is respectfully requested that an Examiner initialed copy of this form be returned to the undersigned.

It is believed that no fees are due with this filing. Nevertheless, the Commissioner is hereby authorized to charge any fees required in connection with this filing, and any additional fees which may be required, or credit any overpayment to Deposit Account No. 19-2380.

Respectfully submitted,

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